

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARCO VILLALOBOS &  
ANGELA YBARRA, a marital community,

Plaintiffs,

v.

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, *et al.*,

Defendants.

C09-1450-JCC

**ORDER**

This matter comes before the Court upon Plaintiffs' motion for an order of default judgment against Defendant Juan Luis Peraza-Zamudio and Plaintiffs' motion for an order of default judgment against Defendant Loan Network, LLC. (Dkt. Nos. 98 & 99, respectively). In addition to Plaintiffs' motions, the Court has also considered the responses of several defendants who have appeared and are actively defending this matter (Dkt. Nos. 106–109), Plaintiffs' replies to those responses (Dkt. Nos. 111–114), as well as the parties' supporting exhibits and declarations. Having reviewed the relevant record and having concluded that oral argument is unnecessary, the Court hereby DENIES the motions for the reasons explained below.

1 **I. BACKGROUND**

2 Plaintiffs' complaint in this matter names several separate defendants. Some of those defendants  
3 have filed notices of appearance and are actively defending this matter. Other defendants have failed to  
4 file notices of appearance or are otherwise failing to defend this matter. Those defendants who are  
5 failing to defend this matter include Defendant Juan Luis Peraza-Zamudio and Defendant Loan  
6 Network, LLC. The Clerk of the Court has found these two defendants to be in default. (Orders (Dkt.  
7 Nos. 95 & 96, respectively).

8 Plaintiffs now ask this Court to enter an order of default judgment against Defendant Juan Luis  
9 Peraza-Zamudio in the amount of \$14,332.45, and to enter an order of default judgment against  
10 Defendant Loan Network, LLC in the amount of \$77,286.42. Much of the requested damages are for  
11 attorney fees. (Dkt. Nos. 98 & 99, respectively). In support of these motions, Plaintiffs submit the  
12 declarations of their attorneys. (*Id.*).

13 **II. RELEVANT LAW**

14 Rule 54 of the Federal Rules of Civil Procedure governs the entry of final judgment. In relevant  
15 part, it reads:

16 When an action presents more than one claim for relief . . . or when multiple parties are  
17 involved, the court may direct entry of a final judgment as to one or more, but fewer than  
18 all, claims or parties only if the court expressly determines that there is no just reason for  
19 delay. Otherwise, any order or other decision, however designated, that adjudicates fewer  
20 than all the claims or the rights and liabilities of fewer than all the parties does not end  
21 the action as to any of the claims or parties and may be revised at any time before the  
22 entry of a judgment adjudicating all the claims and all the parties' rights and liabilities.

23 FED. R. CIV. P. 54(b). Rule 54 applies to all final judgments, including default judgments.<sup>1</sup> *See id.* As a  
24 general rule, "default judgments are disfavored; cases should be decided upon their merits whenever  
25 reasonably possible." *Westchester Fire Ins. Co. v. Mendez*, 585 F.3d 1183, 1189 (9th Cir. 2009).

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26 <sup>1</sup>Rule 55 of the Federal Rules of Civil Procedure governs the entry of orders of default and default judgments specifically. FED. R. CIV. P. 55.

1 In *Frow v. de la Vega*, 82 U.S. 552 (1872), the Supreme Court held that the trial court committed  
2 reversible error when it entered default judgment against a defendant who had failed to appear whn  
3 claims against other defendants remained outstanding. *Frow*, 82 U.S. at 552. The Court framed the  
4 question before it: “The question now was, whether the court . . . could lawfully make a final decree  
5 against one defendant separately, on the merits, whilst the cause was proceeding undetermined against  
6 the others.” *Id.* at 553. The Supreme Court was emphatic that a trial court lacked such power:

7 If the court . . . can lawfully make a final decree against one defendant separately, on the  
8 merits, while the cause was proceeding undetermined against the others, then this  
9 absurdity might follow: there might be one decree of the court sustaining the charge of  
10 joint fraud committed by the defendants; and another decree disaffirming the same  
charge, and declaring it to be entirely unfounded, and dismissing the complainant’s bill.  
. . . Such a state of things is unseemly and absurd, as well as unauthorized by law.

11 *Id.* at 554. *Accord Mendez*, 585 F.3d at 1189 (“[W]here there are several defendants, the transgressions  
12 of one defaulting party should not ordinarily lead to the entry of a final judgment[.]”).

13 *Frow* is an old case, but it is good law. *See, e.g., In re First T.D. & Investment, Inc.*, 253 F.3d  
14 520, 532 (9th Cir. 2001) (describing *Frow* as “[t]he leading case on the subject of default judgments in  
15 actions involving multiple defendants”).

### 16 **III. DISCUSSION**


17 Because Plaintiffs’ claims proceed against certain named defendants who have appeared and  
18 answered, an entry of default judgment against other defendants is improper. Binding precedent from  
19 the Supreme Court is clear: This Court cannot “lawfully make a final decree against one defendant  
20 separately, on the merits, whilst the action [proceeds] undetermined against the others.” *See Frow*, 82  
21 U.S. at 552. The motions are therefore denied.

### 22 **IV. CONCLUSION**

23 For the aforementioned reasons, the Court hereby DENIES Plaintiffs’ motions for default  
24 judgments against Defendant Juan Luis Peraza-Zamudio and Defendant Loan Network, LLC. (Dkt. Nos.  
25 98 & 99, respectively).

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SO ORDERED this 14th day of June, 2011.

  
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JOHN C. COUGHENOUR  
United States District Judge